

## **INITIAL STATEMENT OF REASONS:**

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose to amend Sections 8004.2 of Article 3, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA's Inmate Employability Program, inmate Participation and Inmate Work/Training and Education. Specifically, CALPIA and PIB propose amending Section 8004.2 to incorporate basic inmate employment hire documentation for recordkeeping and maintaining efficient operations.

### **PURPOSE OF PROPOSED REGULATORY ACTION:**

These actions are necessary to implement, interpret, clarify and make specific Penal Code (PC) Section 2811 regarding the General Manager's authority to determine participation for the employment of inmates with CALPIA. This action is also necessary as there has been uncooperativeness among CALPIA inmate workers because they are not required by regulation to sign hire and employment documentation although necessary for operational recordkeeping and maintaining efficient operations.

Penal Code (PC) Sections 2801 and 2808 provide the PIB with implied rulemaking authority to establish regulations for developing and operating enterprises to employ prisoners. Penal Code Section 2801(c) provides CALPIA's General Manager with the authority to operate a work program for prisoners.

Pursuant to Government Code section 11342.2, these proposed amendments are consistent with, and not in conflict with, PC sections 2801; the proposed regulatory action is reasonably necessary to effectuate the purpose of PC section 2801(c) and amend the regulations to require acknowledgement of inmate employment hire documentation for recordkeeping and maintaining efficient operations.

### **SPECIFIC PURPOSE AND RATIONALE FOR THE PROPOSED REGULATORY ACTION:**

#### **Section 8004.2**

#### **8004.2 is amended to read:**

- (i) As part of the appointment process inmates must be provided acknowledgement of policies, procedures, other documents and conditions of appointment and appointment documents for review and signature. Failure or refusal to sign for and/or acknowledge receipt of policies, procedures, other documents and conditions of appointment and appointment documents as requested by their supervisor, or CALPIA, will result in immediate removal from the CALPIA work program.

In order for CALPIA to function safely and efficiently, the proposed regulatory action are needed to provide and enforce standard workplace practices and provide familiarity with those practices to inmates consistent with general workplace standards for familiarity and experience with upon release from custody and post-custody employment. CALPIA provides inmates with work opportunities to develop work skills and experience applicable upon release from custody. It is standard practice for employers to require

applicants and staff to execute appointment and other documents regarding the terms and conditions of employment.

Therefore, CALPIA is amending Section 8004.2 to include this requirement. As part of the appointment process inmates must be provided acknowledgement of policies, procedures, other documents and/or conditions of appointment and appointment documents for review and signature. Failure or refusal to sign for and acknowledge receipt of policies, procedures, other documents and conditions of appointment and appointment documents as requested by their supervisor, or CALPIA, will result in immediate removal from the CALPIA work program. This amendment is necessary as inmates may refuse to sign inmate worker hire and employment documentation.

The proposed regulatory action will be vetted through the public process of PIB, as required in PC Section 2808, subsections (h) and (i), and promulgated through the regulatory process as specified in the Administrative Procedure Act (APA). PIB will review these regulations at the next board meeting. Upon approval, the PIB's Record of Vote and the applicable portion of the meeting minutes will be included in the rulemaking file. These documents will be filed with the Office of Administrative Law (OAL).

#### **Consideration of Alternatives:**

CALPIA has determined that there are no reasonable alternatives to the proposed regulatory amendments nor have any reasonable alternatives been brought to the attention of CALPIA that would lessen any adverse impact on small business.

#### **ECONOMIC IMPACT ASSESSMENT**

As a result of the economic impact assessment and in accordance with Government Code Section 11346.3(b), CALPIA has made the following assessments regarding the proposed regulation:

CALPIA is self-supporting from the sale of its products and services and operates from the Prison Industries Revolving Fund without any appropriation from the General Fund. Pursuant to Penal Code Section 2806<sup>1</sup>, CALPIA's revolving fund is not subject to annual appropriation by the Legislature or oversight by the Department of Finance.

#### **Creation or Elimination of Jobs within the State of California:**

CALPIA has determined the proposed regulation will have no impact on the creation or elimination of existing jobs or businesses within California as the proposed regulation only affects the internal management of CALPIA and the employment of inmate workers within CDCR facilities and CALPIA operations.

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<sup>1</sup> Penal Code § 2806 (Deering's 2017).

' . . . Funds deposited in the revolving fund are not subject to annual appropriation by the Legislature and may be used without a time limit by the authority.

The Prison Industries Revolving Fund is not subject to the provisions of Articles 2 (commencing with Section 13320) and 3 (commencing with Section 13335) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code . . .'

**Creation of New Businesses or Elimination of Existing Businesses within the State of California:**

CALPIA has determined that the proposed regulation will have no impact on the creation of new or elimination of existing businesses within the State of California as the proposed regulation only affects the internal management of CALPIA and the employment of inmate workers within CDCR facilities and CALPIA operations.

**Significant Statewide Adverse Economic Impact on Business:**

CALPIA has initially determined that the proposed amendments will not have any statewide adverse economic impact directly affecting businesses as the proposed regulation only affects the internal management of CALPIA and the employment of inmate workers within CDCR facilities and CALPIA operations.

**Expansion of Businesses Currently Doing Business within the State of California:**

CALPIA evaluated whether businesses would be affected in the State of California. CALPIA has made the initial determination this proposed regulatory action will not affect the creation of new business, the expansion of existing businesses, or the elimination of existing businesses as the proposed regulation only affects the internal management of CALPIA and the employment of inmate workers within CDCR facilities and CALPIA operations.

**Local Mandates:**

CALPIA has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 as the proposed regulation only affects the internal management of CALPIA.

**Benefits of the Regulations**

CALPIA has evaluated the potential benefits of this proposed regulatory action. CALPIA has made an initial determination that this proposed regulatory action:

- Will have no effect on housing costs.
- Will not impose new mandates upon local agencies or school districts.
- Will involve no nondiscretionary costs or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code require reimbursement, nor costs or savings in federal funding to the state.
- Will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California.
- Will continue to provide a nonmonetary benefit for the protection and safety of public health and safety, by ensuring ongoing efficiency of operations employment inmate workers, and providing work experiences for inmate workers to utilize upon release from custody.

**Reports Relied Upon:**

None.